

House Bill 532

By: Representative Everson of the 106<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

To amend Code Section 53-2-1 of the Official Code of Georgia Annotated, relating to rules for inheritance when a decedent dies without a will, so as to provide a short title; to define certain terms; to provide that the court shall have the discretion to award a share of the estate of a decedent who was mentally disabled at the time of his or her death to a legal guardian or a de facto guardian; to provide factors for the court to consider; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

This Act shall be known and may be cited as the "Kenneth Lee Iverson Act."

**SECTION 2.**

Code Section 53-2-1 of the Official Code of Georgia Annotated, relating to rules for inheritance when a decedent dies without a will, is amended by revising the introductory language of subsection (b) as follows:

"(b) When a decedent died without a will, except as otherwise provided in subsection (c) of this Code section, the following rules shall determine such decedent's heirs:"

**SECTION 3.**

Said Code section is further amended by inserting at the end thereof a new subsection as follows:

"(c)(1) As used in this subsection, the term:

(A) 'De facto guardian' means a person who has been shown by clear and convincing evidence to have been the primary caregiver for or the financial supporter of a decedent who was mentally disabled at the time of his or her death.

(B) 'Guardian' means a legal guardian or a de facto guardian.

1 (C) 'Legal guardian' means a person who was a court appointed guardian of a decedent  
2 who was mentally disabled at the time of his or her death.

3 (2) Notwithstanding any provision of subsection (b) of this Code section to the contrary,  
4 the court, in its discretion, may award a child's portion of the estate of a decedent who  
5 was mentally disabled at the time of his or her death to such decedent's guardian. If such  
6 an award is made, the interest of the guardian shall be treated as the interest of a child for  
7 all purposes of subsection (b) of this Code section.

8 (3) In determining whether to award a guardian a share of the decedent's estate as  
9 provided in paragraph (2) of this subsection, the court shall consider the following  
10 factors:

11 (A) The degree of dependence of the decedent during his or her lifetime upon the  
12 guardian;

13 (B) The quality of care which the guardian provided the decedent; and

14 (C) The amount of financial and other material assistance which the guardian provided  
15 the decedent."

16 **SECTION 4.**

17 This Act shall become effective upon its approval by the Governor or upon its becoming law  
18 without such approval.

19 **SECTION 5.**

20 All laws and parts of laws in conflict with this Act are repealed.